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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,030	12/20/2001	Ananthanarayan Venkateswaran	AA411M	5106

27752 7590 09/08/2003

THE PROCTER & GAMBLE COMPANY
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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 09/08/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary*File Copy*

Application No.

10/019,030

Applicant(s)

VENKATESWARAN ET AL.

Examiner

JYOTHSNA A VENKAT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of amendment B filed on 6/26/03. Claim 4 has been canceled as per applicant's amendment dated 6/26/03. Claims 1-3, and 5-10 are pending in the application and the status of the application is as follows:

The following new grounds of rejection are necessitated by the amendment.

Specification

1. The amendment filed 6/26/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: In order to overcome the objection to the specification applicants amended the specification to define the variables a and b for formulae II and IV as 2-3. There is no support in the specification for this range. ***In accordance with MPEP 71.03 applicants should specifically point out support for any amendments made to the disclosure.***

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

1. Claims 1-3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 460,683 ('683), WO '655 and U. S. Patent 6,468,515 ('515).

The instant application is claiming a hair conditioning composition comprising by weight:

- a. *From about 0.1% to about 20% of a cationic emulsion comprising by weight of the cationic emulsion from about 1% to about 20% of a cationic surfactant and emulsifiable amount of silicone compound*

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- b. 0.1% to about 15% of a high melting point fatty compound*
- c. From about 0.1% to about 10% of a cationic conditioning agent*
- d. An aqueous carrier*
- e. Low melting oil, which can be either fatty alcohol of claim 7, or either pentaerythritol ester oils or citrate ester oils of claim 8*
- f. Polyethylene glycol (claim 9)*

The EP document teaches ingredient 1 for hair care. See page2, page 4-6. The document teaches that ingredient c can be added to the compositions. The document neither teaches the range of c nor it teaches the other ingredients claimed. WO document teaches the ingredients b-d in hair compositions. See paper no. 6 under 102(b) rejection for relevant pages. The document does not teach ingredients e-f in the hair compositions. However the patent '515 teaches hair conditioning compositions comprising high molecular ester oils which are the species claimed under e. See col.2, lines 10-55 for the two structures. See also cols. 3-4. The patent also teaches ingredient f at col.19, lines 1-40. The patent also teaches ingredients b-d. See col.17, lines 34 et seq and col.18 for the ingredients b. The cationic conditioning agent is taught at col.4, lines 35 et seq and cols. 5-6. The patent does not teach ingredient a) as an emulsion, but the patent teaches the both the ingredients claimed in a which are cationic surfactant and silicone compounds. See silicone compounds at col.s 10-12 and col.13, lines 1-53 and see col.13, lines 55 et seq and col.14, cols 15-16, col.17, lines 1-32 for the cationic surfactant. See also the examples.

2. Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to prepare compositions of '655 and combine it with the cationic silicone emulsions of '683 and *low melting oil which can be either fatty alcohol of claim 7 or either*

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*pentaerythritol ester oils or citrate ester oils of claim 8, and polyethylene glycol (claim 9) of '515 expecting beneficial effect to the hair. The motivation to use the *low melting oil which can be either fatty alcohol of claim 7 or either pentaerythritol ester oils or citrate ester oils* stems from the teachings of '515 that the compositions provide lasting moisturizing feel, smooth feel, manageability control to the hair and yet not leave the hair feeling greasy. The motivation to use the cationic silicone emulsions where in the silicone compound comprises a mechanically emulsified polydimethylsiloxane stems from the teaching of '683 that these emulsions possess high viscosity and high molecular weight. The motivation to combine the ingredients flows logically from the art for having been used in the same hair care compositions. This is a prima facie case of obviousness.*

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

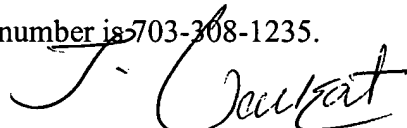
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A VENKAT whose telephone number is 703-308-2439. The examiner can normally be reached on Monday-Thursday, 9:30-7:30:1st and 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K PAGE can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


JYOTHSNA A VENKAT
Primary Examiner
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